

UNITED STATES DISTRICT COURT

**DISTRICT OF ARIZONA
OFFICE OF THE CLERK**

RICHARD H. WEARE

DISTRICT COURT EXECUTIVE / CLERK OF COURT
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TUCSON, ARIZONA 85701-5010

November 20, 2009

Clerk of Court
U.S. District Court
402 E. State Street
Trenton, NJ 08608

RE: USA v. Benjamin Pena, Robert Rubeck and Tamara Frankel

Your case number: CR09-858

Arizona case number: 09-06520M-et al.

Dear Clerk of the Court:

The above charge originated in your district. The defendants have appeared before Magistrate Judge David K. Duncan in Phoenix, Arizona. The following action has been taken.

- ☒ THE DEFENDANTS HAS BEEN ORDERED TO APPEAR IN THE CHARGING DISTRICT ON: 12/15/09 at 11:30 am in Ctrm. #1-Post Office Bldg

You may access electronically filed documents in this case at our ECF/PACER web address <http://ecf.azd.uscourts.gov>. Any documents not available electronically are enclosed in paper format along with a copy of the docket sheet and either the Order to Appear or the Commitment to Another District.

Please acknowledge receipt on the enclosed copy of this letter and return to the Phoenix office.

Sincerely,

RICHARD H. WEARE,
CLERK OF COURT/DISTRICT COURT EXECUTIVE

By: /s/

Phylis Durbin
Deputy Clerk

Enclosures

The staff of the Clerk's Office ensures the effective, efficient and professional delivery of clerical and administrative services, while fostering a customer-friendly and employee-friendly environment.

AO 467 (Rev. 01/09) Order Requiring a Defendant to Appear in the District Where Charges are Pending and Transferring Bail

UNITED STATES DISTRICT COURT

for the

District of Arizona

United States of America)

v.)

Benjamin Pena)

Defendant)

Case No. 09-06520M-001

Charging District: New Jersey

Charging District's Case No. CR09-858 (JAP)

**ORDER REQUIRING A DEFENDANT TO APPEAR IN THE DISTRICT
WHERE CHARGES ARE PENDING AND TRANSFERRING BAIL**

After a hearing in this court, the defendant is released from custody and ordered to appear in the district court where the charges are pending to answer those charges. If the time to appear in that court has not yet been set, the defendant must appear when notified to do so. Otherwise, the time and place to appear in that court are:

Place: Clarkson S. Fisher Building & U.S. Courthouse 402 East State Street Trenton, NJ 08608	Courtroom No.: 1 (Post Office Bldg.) Date and Time: 12/15/2009 at 11:30 AM
----------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------

The clerk is ordered to transfer any bail deposited in the registry of this court to the clerk of the court where the charges are pending.

Date: Nov 19, 2009*Judge's signature*David K. Duncan, United States Magistrate Judge*Printed name and title*

AO 467 (Rev. 01/09) Order Requiring a Defendant to Appear in the District Where Charges are Pending and Transferring Bail

UNITED STATES DISTRICT COURT
for the
District of Arizona

United States of America

v.

Robert Z. Rubeck

Defendant

)
) Case No. 09-06520M-002
)

) Charging District: New Jersey

) Charging District's Case No. CR09-858 (JAP)

**ORDER REQUIRING A DEFENDANT TO APPEAR IN THE DISTRICT
WHERE CHARGES ARE PENDING AND TRANSFERRING BAIL**

After a hearing in this court, the defendant is released from custody and ordered to appear in the district court where the charges are pending to answer those charges. If the time to appear in that court has not yet been set, the defendant must appear when notified to do so. Otherwise, the time and place to appear in that court are:

Place: Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, NJ 08608

Courtroom No.: 1 (Post Office Bldg.)

Date and Time: 12/15/2009 at 11:30 AM

The clerk is ordered to transfer any bail deposited in the registry of this court to the clerk of the court where the charges are pending.

Date: Nov 19, 2009



Judge's signature

David K. Duncan, United States Magistrate Judge

Printed name and title

AO 467 (Rev. 01/09) Order Requiring a Defendant to Appear in the District Where Charges are Pending and Transferring Bail

UNITED STATES DISTRICT COURT

for the

District of Arizona

United States of America

v.

Tamara Frankel

Defendant

)
) Case No. 09-06520M-003
)

) Charging District: New Jersey

) Charging District's Case No. CR09-858 (JAP)

ORDER REQUIRING A DEFENDANT TO APPEAR IN THE DISTRICT WHERE CHARGES ARE PENDING AND TRANSFERRING BAIL

After a hearing in this court, the defendant is released from custody and ordered to appear in the district court where the charges are pending to answer those charges. If the time to appear in that court has not yet been set, the defendant must appear when notified to do so. Otherwise, the time and place to appear in that court are:

Place: Clarkson S. Fisher Building & U.S. Courthouse 402 East State Street Trenton, NJ 08608	Courtroom No.: 1 (Post Office Bldg.) Date and Time: 12/15/2009 at 11:30 AM
----------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------

The clerk is ordered to transfer any bail deposited in the registry of this court to the clerk of the court where the charges are pending.

Date: Nov 19, 2009



Judge's signature

David K. Duncan, United States Magistrate Judge

Printed name and title

CLOSED

**U.S. District Court
DISTRICT OF ARIZONA (Phoenix Division)
CRIMINAL DOCKET FOR CASE #: 2:09-mj-06520-DKD All Defendants
Internal Use Only**

Case title: USA v. Pena et al
Other court case number: CR 09-858-JAP District of
New Jersey

Date Filed: 11/19/2009
Date Terminated: 11/20/2009

Assigned to: Magistrate Judge David
K Duncan

Defendant (1)

Benjamin Pena

TERMINATED: 11/20/2009

represented by **Carmen Lynne Fischer**

Law Office of Carmen L Fischer

710 W Roosevelt St

Phoenix, AZ 85007

602-252-1282

Fax: 602-252-6043

Email:

fischercarmen@qwestoffice.net

ATTORNEY TO BE NOTICED

Designation: CJA Appointment

Pending Counts

None

Disposition

**Highest Offense Level
(Opening)**

None

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

None

Complaints

18:371, 287, 1349, 1341,982;
Conspiracy to defraud gov't-
Present/Submit False claims, mail
fraud, forfeiture

Disposition

Assigned to: Magistrate Judge David
K Duncan

Defendant (2)

Robert Z Rubeck

TERMINATED: 11/20/2009

represented by **Brian Fredrick Russo**

Law Office of Brian F Russo

111 W Monroe St

Ste 1212

Phoenix, AZ 85003

602-340-1133

Fax: 602-258-9179

Email: bfrusso@att.net

ATTORNEY TO BE NOTICED

Designation: Retained

Pending Counts

None

Disposition

**Highest Offense Level
(Opening)**

None

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

None

Complaints

18:371, 287, 1349, 1341,982;
Conspiracy to defraud gov't-
Present/Submit False claims, mail
fraud, forfeiture

Disposition

Assigned to: Magistrate Judge David
K Duncan

Defendant (3)

Tamara Frankel

TERMINATED: 11/20/2009

represented by **Alfred S Donau , III**

Donau & Bolt
3505 N Campbell Ave
Ste 501
Tucson, AZ 85719-2033
520-795-8710
Fax: 520-795-0308
Email: skipdonau@aol.com
ATTORNEY TO BE NOTICED
Designation: Retained

Pending Counts

None

Disposition

Highest Offense Level
(Opening)

None

Terminated Counts

None

Disposition

Highest Offense Level
(Terminated)

None

Complaints

18:371, 287, 1349, 1341,982;
Conspiracy to defraud gov't-
Present/Submit False claims, mail
fraud, forfeiture

Disposition










Plaintiff

USA

represented by **Darcy A Cerow**

US Attorney's Office
2 Renaissance Sq
40 N Central Ave

Ste 1200
 Phoenix, AZ 85004-4408
 602-514-7500
 Fax: 602-364-7929
 Email: Darcy.Cerow@USDOJ.GOV
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/19/2009	 <u>1</u>	Arrest (warrant issued other district) of Benjamin Pena, Robert Z Rubeck, Tamara Frankel (PKD,) (Entered: 11/19/2009)
11/19/2009	 <u>2</u>	Minute Entry for proceedings held before Magistrate Judge David K Duncan: Initial Appearance in Rule 5(c)(3) Proceedings and Appointment of Counsel Hearing as to Benjamin Pena held on 11/19/2009. Appointing Carmen Fischer with Appointment Type: CJA. FINANCIAL AFFIDAVIT TAKEN. Identity Hearing waived. Detention Hearing submitted. Defendant ordered released O/R with conditions. Preliminary Hearing reserved for prosecuting district. ASL INTERPRETER REQUIRED. (Court Reporter COURTSMAART). (JIR) (Entered: 11/20/2009)
11/19/2009	 <u>3</u>	(Court only) CJA 23 Financial Affidavit by Benjamin Pena (JIR) (Entered: 11/20/2009)
11/19/2009	 <u>4</u>	WAIVER of Rule 5 Hearings by Benjamin Pena. Defendant waives the right to have an identity hearing. Preliminary Hearing reserved for prosecuting district. (JIR) (Entered: 11/20/2009)
11/19/2009	 <u>5</u>	ORDER Setting Conditions of Release as to Benjamin Pena (1). Defendant released O/R with conditions. Signed by Magistrate Judge David K Duncan on 11/19/09. (JIR) (Entered: 11/20/2009)
11/19/2009	 <u>6</u>	Minute Entry for proceedings held before Magistrate Judge David K Duncan: Initial Appearance in Rule 5(c)(3) Proceedings as to Robert Z Rubeck held on 11/19/2009. Appearance entered by Brian Russo: RETAINED. Notice of Appearance filed in open court. Identity Hearing waived. Detention Hearing submitted. Defendant ordered released O/R with conditions. Preliminary Hearing reserved for prosecuting district. ASL INTERPRETER REQUIRED. (Court Reporter COURTSMAART). (JIR) (Entered: 11/20/2009)
11/19/2009	 <u>7</u>	WAIVER of Rule 5 Hearings by Robert Z Rubeck. Defendant waives the right to have an identity hearing. (JIR) (Entered: 11/20/2009)
11/19/2009	 <u>8</u>	NOTICE OF ATTORNEY APPEARANCE: Brian Fredrick Russo appearing for Robert Z Rubeck. (JIR) (Entered: 11/20/2009)
11/19/2009	 <u>9</u>	Minute Entry for proceedings held before Magistrate Judge David K

		Duncan: Initial Appearance in Rule 5(c)(3) Proceedings as to Tamara Frankel held on 11/19/2009. Appearance entered by Brian Russo for Alfred S Donau, III: RETAINED. Notice of Appearance filed in open court. Identity Hearing waived. Detention Hearing submitted. Defendant ordered released O/R with conditions. Preliminary Hearing reserved for prosecuting district. ASL INTERPRETER REQUIRED. (Court Reporter COURTSMAART). (JIR) (Entered: 11/20/2009)
11/19/2009	● <u>10</u>	WAIVER of Rule 5 Hearings by Tamara Frankel. Defendant waives the right to have an identity hearing. (JIR) (Entered: 11/20/2009)
11/19/2009	● <u>11</u>	NOTICE OF ATTORNEY APPEARANCE: Alfred S Donau appearing for Tamara Frankel. (JIR) (Entered: 11/20/2009)
11/19/2009	● <u>12</u>	ORDER Setting Conditions of Release as to Tamara Frankel (3). Defendant ordered released O/R with conditions. Signed by Magistrate Judge David K Duncan on 11/19/09. (JIR) (Entered: 11/20/2009)
11/19/2009	● <u>13</u>	ORDER Setting Conditions of Release as to Robert Z Rubeck (2). Defendant ordered released O/R with conditions. Signed by Magistrate Judge David K Duncan on 11/19/09. (JIR) (Entered: 11/20/2009)
11/20/2009	● <u>14</u>	ORDER TO APPEAR IN PROSECUTING DISTRICT as to Benjamin Pena. Defendant is ordered to appear in Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Trenton, NJ 08608 on 12/15/09 at 11:30 AM. Signed by Magistrate Judge David K Duncan on 11/19/09. (JIR) (Entered: 11/20/2009)
11/20/2009	● <u>15</u>	ORDER TO APPEAR IN PROSECUTING DISTRICT as to Robert Z Rubeck. Defendant is ordered to appear in Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Trenton, NJ 08608 on 12/15/09 at 11:30 AM. Signed by Magistrate Judge David K Duncan on 11/19/09. (JIR) (Entered: 11/20/2009)
11/20/2009	● <u>16</u>	ORDER TO APPEAR IN PROSECUTING DISTRICT as to Tamara Frankel. Defendant is ordered to appear in Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Trenton, NJ 08608 on 12/15/09 at 11:30 AM. Signed by Magistrate Judge David K Duncan on 11/19/09. (JIR) (Entered: 11/20/2009)

IN UNITED STATES IN THE CASE OF	<input type="checkbox"/> MAGISTRATE <input type="checkbox"/> DISTRICT <input type="checkbox"/> APPEALS COURT of <input type="checkbox"/> OTHER PANEL (Specify below)	NOV 19 2009	LOCATION NUMBER
V.S.	FOR	CLERK US DISTRICT COURT DISTRICT OF ARIZONA	
	AT	BY	DEPUTY
PERSON REPRESENTED (Show your full name) Benjamin Pena		<input checked="" type="checkbox"/> Defendant—Adult <input type="checkbox"/> Defendant - Juvenile <input type="checkbox"/> Appellant <input type="checkbox"/> Probation Violator <input type="checkbox"/> Parole Violator <input type="checkbox"/> Habeas Petitioner <input type="checkbox"/> 2255 Petitioner <input type="checkbox"/> Material Witness <input type="checkbox"/> Other	
CHARGE/OFFENSE (describe if applicable & check box →) Rules		<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	
		DOCKET NUMBERS Magistrate 09-6520M-2 District Court Court of Appeals	

ASSETS	EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Am Self-Employed Name and address of employer: 14301 N. 87th ST #112 IF YES, how much do you earn per month? \$ CONTACT CORP. NO IF NO, give month and year of last employment How much did you earn per month? \$ 300	
		If married is your Spouse employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, how much does your Spouse earn per month? \$ _____ If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ _____	
	OTHER INCOME	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> NO IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES RECEIVED \$ 0 SOURCES 0	
	CASH	Have you any cash on hand or money in savings or checking accounts? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, state total amount \$ _____	
PROPERTY	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
	IF YES, GIVE THE VALUE AND \$ DESCRIBE IT VALUE 12 K DESCRIPTION		

OBLIGATIONS & DEBTS	DEPENDENTS	MARITAL STATUS <input type="checkbox"/> SINGLE <input checked="" type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SEPARATED OR DIVORCED	Total No. of Dependents 2	List persons you actually support and your relationship to them	
	DEBTS & MONTHLY BILLS (LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)	APARTMENT OR HOME:	Creditors	Total Debt	Monthly Paymt.
		Lease	APRIL	\$ 500.00	\$ 400
	credit cards	\$ 300	\$ 50		
	Bank of America	\$ 1,000	\$ 100		
	cell phone	\$ 50	\$ 50.00		

I certify under penalty of perjury that the foregoing is true and correct. Executed on (date) **11/19/09**

SIGNATURE OF DEFENDANT (OR PERSON REPRESENTED) **[Signature]**